

AUG 25 1998

**Federal Communications Commission
Office of Secretary**

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) 98-161
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) Transmittal No. 476
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One of Sprint's concerns is with the rate structure of the BellSouth offering. Sprint is concerned whether the

significant¹ volume discounts that BellSouth is offering are reasonably related to the underlying costs of providing ADSL Service.²

On page 2 of its Description and Justification of the proposed offering, BellSouth states only that "the volume component of the rate design is intended to encourage utilization of BellSouth ADSL service and increase the service's penetration in the marketplace." Because BellSouth has requested confidential treatment of the cost support data filed with Transmittal No. 476, however, Sprint is simply unable to evaluate whether data used to develop the rate structure justify either the rates or the discounts BellSouth proposes.

The Commission has long sought to ensure the reasonableness of private line or special access service discounts in response to claims of competitive necessity such as those that BellSouth raises here. In its *Private Line Rate Structure* order, 97 FCC 2d 923 (1984), for example, the Commission said that in seeking to justify a volume discount, a carrier's proof

¹ The monthly recurring charges for ADSL service range from a high of \$45.00 per month to a low of \$29.00 per month, a discount of almost 36%. The \$29.00 monthly rate is made even more attractive by the fact that only customers who order more than 40,000 Virtual Circuits are afforded 36 rather than 24 months to reach that volume commitment.

² Sprint notes that two recent ADSL filings, GTE Operating Companies Transmittal No. 1148 and Pacific Bell's Transmittal No. 1986, did not propose such significant volume discounts. GTE's Transmittal No. 1148, for example, proposed maximum monthly volume discounts of approximately 12% with most discounts being considerably smaller. Pacific Bell proposed no volume discounts at all for monthly use.

...should include a showing that (1) an equal or lower priced competitive alternative - a similar offering or set of offerings from other common carriers or customer-owned systems - *is generally available* to customers of the discounted offering; (2) the terms of the discounted offering are reasonably designed to meet competition without undue discrimination; and (3) the volume discount contributes to reasonable rates and efficient services for all users. 97 FCC 2d 948 (emphasis supplied).

While BellSouth has sought to demonstrate that it faces competition from competitive access providers (CAPs) in many of the markets where it does business, it should also demonstrate that the volume based rate structure proposed is a reasonable competitive response. A generalized discount may not be appropriate if not justified by costs or by competitors' practices.

Similarly questionable is the high minimum number of Virtual Circuits required under the offering (51). Neither GTOC Transmittal No. 1148 nor Pacific Bell Transmittal No. 1986 sought to inhibit the use of ADSL Service through the use of high minimums for they permitted customers to order as little as one circuit. If the transmittal is set for investigation, Sprint will seek access to the cost support data under the standard protective order in order to provide further detailed analysis of such data.

Sprint is also concerned about BellSouth's apparent bundling of a splitter into the proposed ADSL Service. It is Sprint's understanding of BellSouth's ADSL architecture

that the splitter will strip off the voice transmissions riding the Virtual Circuit from the data transmission. While some customers might find this capability useful, others, such as Sprint would be harmed by this arrangement.

Sprint's ION offering can provide homes and businesses with virtually unlimited bandwidth over a single existing telephone line for simultaneous voice, video and data services. With ION, a household of business will be able to conduct multiple phone calls, receive faxes, run new advanced applications, and use the Internet at speeds up to 100 times faster than today's conventional modems, all simultaneously through a single connection.

Because it integrates all communications into a single data stream, the splitter that is bundled into BellSouth's ADSL offering is unnecessary and needlessly complicates Sprint's ability to offer ION: what BellSouth has split off Sprint will have to reassemble. Customers should not be required to have the splitter bundled in with other ADSL features, but should be able to avoid using (and paying for) same.

This is the approach contemplated by Section 61.40(a)(3) of the Commission's rules, which provides that "rate elements should be selected to meet market demand, pricing convenience for the carrier and customers, and cost characteristics." As the Commission explained in the

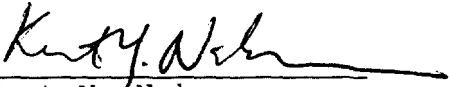
Private Line Rate Structure order, "in many cases carriers unnecessarily 'bundled' service functions together under one rate element, thus effectively denying customers the option of, or penalizing them for, using less than all the service functions under that element." 97 FCC 2d at 934. This is such an instance, and the splitter should be unbundled.

Finally, the Division should require BellSouth to clarify that the latter is not attempting to bundle ADSL Service with existing BellSouth offerings. Section 7.2.17 of the proposed tariff requires, among other things, that in order to provide ADSL Service, the designated end-user premises location "must be served by an existing, in-service Telephone Company provided exchange line facility."

To the extent that BellSouth is attempting to require an ADSL subscriber also to subscribe to telephone exchange service, this attempt should be rejected. As Sprint has indicated above, Sprint's ION offering would obviate the need for more than one line. Sprint and its customers should not be required to subscribe to a service they neither need nor want. Sprint notes that in its Order suspending GTE's Transmittal No. 1148, the Division decided to investigate whether GTE's ADSL offering unreasonably bundled that offering with GTE's frame relay service. BellSouth's apparent proposal to engage in similar conduct should likewise be investigated.

Accordingly, Sprint respectfully requests that the Division suspend and investigate BellSouth's above-captioned transmittal to ensure the reasonableness of that offering.

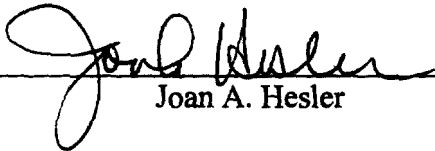
Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 25th day of August, 1998 to the below-listed parties:


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